

Senate Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE CONCURRENT RESOLUTION 1033

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO
PROBATION FOR METHAMPHETAMINE OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of
2 Representatives concurring:

3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to probation for methamphetamine offenses, is
5 enacted to become valid as a law if approved by the voters and on
6 proclamation of the Governor:

7 AN ACT

8 AMENDING SECTION 13-901.01, ARIZONA REVISED STATUTES; RELATING
9 TO PROBATION.

10 Be it enacted by the Legislature of the State of Arizona:

11 Section 1. Section 13-901.01, Arizona Revised Statutes,
12 is amended to read:

13 13-901.01. Probation for persons convicted of possession
14 or use of controlled substances or drug
15 paraphernalia; treatment; prevention;
16 education; exceptions; definition

17 A. Notwithstanding any law to the contrary, any person
18 who is convicted of the personal possession or use of a
19 controlled substance or drug paraphernalia is eligible for
20 probation. The court shall suspend the imposition or execution
21 of sentence and place the person on probation.

22 B. Any person who has been convicted of or indicted for a
23 violent crime as defined in section 13-604.04 is not eligible
24 for probation as provided for in this section but instead shall
25 be sentenced pursuant to chapter 34 of this title.

26 C. Personal possession or use of a controlled substance
27 pursuant to this section shall not include possession for sale,
28 production, manufacturing or transportation for sale of any
29 controlled substance.

30 D. If a person is convicted of personal possession or use
31 of a controlled substance or drug paraphernalia, as a condition
32 of probation, the court shall require participation in an
33 appropriate drug treatment or education program administered by
34 a qualified agency or organization that provides such programs
35 to persons who abuse controlled substances. Each person who is
36 enrolled in a drug treatment or education program shall be
37 required to pay for participation in the program to the extent
38 of the person's financial ability.

39 E. A person who has been placed on probation pursuant to
40 this section and who is determined by the court to be in
41 violation of probation shall have new conditions of probation
42 established by the court. The court shall select the additional
43 conditions it deems necessary, including intensified drug
44 treatment, community restitution, intensive probation, home
45 arrest or any other sanctions except that the court shall not

1 impose a term of incarceration unless the court determines that
2 the person violated probation by committing an offense listed in
3 chapter 34 or 34.1 of this title or an act in violation of an
4 order of the court relating to drug treatment.

5 F. If a person is convicted a second time of personal
6 possession or use of a controlled substance or drug
7 paraphernalia, the court may include additional conditions of
8 probation it deems necessary, including intensified drug
9 treatment, community restitution, intensive probation, home
10 arrest or any other action within the jurisdiction of the court.

11 G. At any time while the defendant is on probation, if
12 after having a reasonable opportunity to do so the defendant
13 fails or refuses to participate in drug treatment, the probation
14 department or the prosecutor may petition the court to revoke
15 the defendant's probation. If the court finds that the
16 defendant refused to participate in drug treatment, the
17 defendant shall no longer be eligible for probation under this
18 section but instead shall be sentenced pursuant to chapter 34 of
19 this title.

20 H. A person is not eligible for probation under this
21 section but instead shall be sentenced pursuant to chapter 34 of
22 this title if the court finds the person either:

23 1. Had been convicted three times of personal possession
24 of a controlled substance or drug paraphernalia.

25 2. Refused drug treatment as a term of probation.

26 3. Rejected probation.

27 4. WAS CONVICTED OF THE PERSONAL POSSESSION OR USE OF A
28 CONTROLLED SUBSTANCE OR DRUG PARAPHERNALIA AND THE OFFENSE
29 INVOLVED METHAMPHETAMINE.

30 I. Subsections G and H of this section do not prohibit
31 the defendant from being placed on probation pursuant to section
32 13-901 if the defendant otherwise qualifies for probation under
33 that section.

34 J. For the purposes of this section, "controlled
35 substance" has the same meaning prescribed in section 36-2501.

36 2. The Secretary of State shall submit this proposition to the voters
37 at the next general election as provided by article IV, part 1, section 1,
38 Constitution of Arizona.

~~PASSED BY THE HOUSE JUNE 21, 2006.~~

~~PASSED BY THE SENATE MARCH 2, 2006.~~

~~FILED IN THE OFFICE OF THE SECRETARY JUNE 22, 2006.~~